

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 85 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

HEMRAJ BHAVARLAL

Versus

STATE OF GUJARAT

Appearance:

MS KRISHNA U MISHRA for Petitioner
MS HB PUNANI, APP for Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 21/02/2000

ORAL JUDGEMENT

1. Rule. Ms.Punani, APP waives service of the rule on behalf of the respondents.
2. The police authority is acting highly arbitrarily

in the matters of parole/furlough leave which is clearly exhibited from this case. Not only this, in these matters the police authorities are exhibiting as if they have veto powers. The order impugned in this special criminal application is at page 5 which reads as under.:

"With the above subject and reference inform to you that Due to breach of peace, Dy. Police Commission Zone - 5, Ahmedabad City has given adverse police opinion, Therefore, according to Bombay Parole and Furlough Rules, 1959, rule 4.4, furlough application is hereby rejected.

If prisoner wants to make new application, he can make after six months according to Bombay Parole and Furlough Rules, Rule 9. Please inform to this to the prisoner."

The application is rejected by the Inspector General (Prisons), Government of Gujarat, Ahmedabad only on the ground that the Deputy Police Commissioner, Zone-5, Ahmedabad City has given adverse police opinion. Copy of the same has also not been produced on the record. In many matters earlier, this court said that, simply police opinion is not sufficient, but the concerned police officer has to make necessary investigation and then record its satisfaction that release of the prisoner on parole/furlough leave is not in the interest of public peace or administration. This has not been precisely done in the present case. The order impugned in this special criminal application cannot be allowed to stand and the same is quashed and set aside. Inspector General (Prisons), Government of Gujarat, Ahmedabad is directed to pass fresh order in the matter and still he is of the opinion that furlough leave can not be granted, a reasoned order may be passed and this exercise has to be complete within 7 days from the date of the receipt of the writ of this order.

3. In the result, this special criminal application succeeds in part and subject to these directions the same is disposed of. Liberty is granted to the petitioner for revival of this special criminal application in case of difficulty. Rule stands disposed of accordingly.

(pathan)